THE HONOUABLE SRI JUSTICE V.ESWARAIAH

W.P. No. 15156 of 2007

Date:05-09-2007

Between:

Smt.Settipalli Tirupathamma .. **PETITIONER**

AND

The Mandal Tahsildar, Venkatagiri and another .. **RESPONDENTS**

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ORDER:

The petitioner seeks a writ of mandamus to declare the action of the respondent No.1 in not conducting the survey of the house site of the petitioner's house bearing H.No.8-17, in an extent of Ac.0.05 cents in Sy.No.148, Plot No.211 of Periyavaram village, Venkatagiri municipal lilmits, Nellore District, as illegal and arbitrary.

It is the case of the petitioner that she was allotted a house site patta by the first respondent vide File No.A-949/91, dated 08.05.2006 bearing plot No.211 admeasuring an extent of
Ac.0.05 cents in Sy.No.148, as per the layout prepared in the said Sy.No.148 situated at Periyavaram grampanchayat, Venkatagiri mandal, Nellore District.

It is further stated that the house site pattas were allotted to different persons have been earmarked with particular plot numbers as per the layout and covered by the fixed boundaries. It is stated that the said Periyavaram grampanchayat was subsequently included in Venkatagiri municipality and a house bearing No.3/49 was also assigned to the said house site. It is further stated that the second respondent who is a resident of Thimmayagunta village encroached upon the house of the petitioner. In that regard, the petitioner has raised a dispute and approached the Lok Adalat, Venkatagiri and filed pre-litigation case in PLC No.4 of 2007 on the file of the Mandal Legal Services Authority Chairman, Venkatagiri on 08.05.2006 and the same is pending for disposal. It is stated that the petitioner made a representation before the first respondent to conduct survey, but no survey was conducted. Therefore, he made another representation on 19.06.2006 by paying challan for Rs.250/- for conducting survey, but

no survey was conducted. It is stated that again the petitioner made a representation before the Sub-Collector on 02.07.2007 who directed the Mandal Revenue Officer to take necessary action, but so far no action has been taken.

I am of the opinion that if the second respondent has encroached upon the house of the petitioner, under the guise of survey, the first respondent cannot remove the encroacher. As admittedly, when the second respondent encroached into the house of the petitioner, the only course left open for the petitioner is to file a civil suit for eviction of the second respondent. Further, the petitioner is not disputing any boundary or plot number relating to the house. Therefore, the question of conducting any survey by the revenue authorities does not arise. As already stated, the only course left open for the petitioner is to file a civil suit for eviction of the second respondent.

In view of the aforesaid discussion and having regard to the facts of the case, I do no see any merits in the writ petition and the writ petition is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

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V.ESWARAIAH, J.

Date:05.09.2007
ccm